

1 package, referred to as a "welcome kit". All customers must sign an enrollment and consent
2 form prior to redeeming points in the program.

3 12. All focus groups were conducted by independent contractors. No preliminary (or other) tests
4 were conducted in any focus groups using long distance information derived from Pacific Bell
5 billing records.
6

7 13. The Awards program allows customers to earn points even if their long distance provider also
8 includes them in their awards program. The logos or trademarks of all the program participants
9 are prominently displayed on the direct mail piece. No long distance provider is included in
10 this list. The program materials and advertisements do not refer to any long distance service
11 provider, including the Plaintiffs, by name. It therefore is obvious from the program
12 advertising materials that no long distance provider is a program participant in, or otherwise
13 sponsors or endorses the Awards program.
14

15 14. The fact that long distance telephone use is rewarded in the program likely encourages
16 customers to increase the use of Plaintiffs' services.
17

18 15. The direct flyer states " If you currently receive a separate bill from a long distance company,
19 you may want to ask them about the possibility of combining it with your Pacific Bell bill". I
20 am aware that on May 6, 1996 Plaintiff AT&T announced its intent to issue separate bills to
21 more than one million Pacific Bell customers. I am aware that Plaintiff Sprint offers separate
22 billing to its customers presumably targeting their high revenue customers. I am aware that
23 Plaintiff MCI offers separate billing to its customers, and in fact rewards such separate billing
24 by giving away frequent flyer miles. It is appropriate to inform customers of a competitive
25 billing option offered by Pacific Bell, for which they are able to earn a greater number of
26 Awards points.
27
28

- 1 16. To date, the Pacific Bell data containing total billed revenue or other usage information
2 pertaining to customers that have enrolled in the Awards program has not been loaded into the
3 Extras database.
4
- 5 17. Customers select a program participant when they wish to redeem Awards points. There is no
6 intent for PB Extras to transfer billing or other data pertaining to an Awards customer's
7 telephone use to its program participants. PB Extras anticipates the need to occasionally
8 confirm an individual's name or address with the program participant for verification purposes
9 only.

10 The Billing Information Used for the Awards Program

11 does not Distinguish Long Distance Charges.

- 12
- 13 18. Awards points are accrued based on the total billed amount, as long as the bill exceeds \$50.
14 PB Extras only requires the total billed revenue ("TBR") amount to award points.
- 15 19. The TBR appearing on a customer's bill includes any Pacific Bell-related installation, inside
16 wiring, or other non-recurring charges. It also includes charges for any telephone usage billed
17 through Pacific Bell, including local and local toll calling, custom calling features, charges
18 billed through Pacific Bell for one of its affiliates such as The Message Center (Pacific Bell
19 Information system's voice mail service), Pacific Bell Mobile Services (a paging service
20 provider) and calls for any long distance carrier billed to that customer's account also are
21 included.
22
- 23 20. In some cases, customers receive a bill through Pacific Bell for more than one long distance
24 carrier. For example, if a customer subscribes to one long distance carrier, but occasionally a
25 "10XXX" (referred to as a "Carrier Identification Code" or "CIC") is used prior to making a
26 call from their telephone line, charges from more than one long distance carrier will appear on
27
28

1 their bill. Calling card calls and collect calls billed to the selected number but delivered by a
2 carrier other than their selected long distance carrier for that telephone number also will appear
3 on the bill.

4
5 21. Customers are able to combine multiple telephone bills with the same billing name but
6 different addresses, or multiple telephone bills with different billing names but the same billing
7 address for the purpose of earning Awards points.

8 22. Using the TBR amount in the Awards program is not injurious to any competitor, because the
9 information used is blind as to the amount of long distance use or the identity of the long
10 distance carrier.

11
12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct.

14 DATE: May 10, 1996


Jan Hewitt

rier is located, and such other persons as the commission may prescribe.

(d) In making a valuation of the property of any wire telephone carrier the Commission, after making the classification authorized in this section, may in its discretion value only that part of the property of such carrier determined to be used in interstate or foreign telephone toll service.

SEC. 222. [47 U.S.C. 222] PRIVACY OF CUSTOMER INFORMATION.

(a) IN GENERAL.—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

(b) CONFIDENTIALITY OF CARRIER INFORMATION.—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

(2) DISCLOSURE ON REQUEST BY CUSTOMERS.—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

(3) AGGREGATE CUSTOMER INFORMATION.—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

(1) to initiate, render, bill, and collect for telecommunications services;

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

(e) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

(f) DEFINITIONS.—As used in this section:

(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term "customer proprietary network information" means—

(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information.

(2) AGGREGATE INFORMATION.—The term "aggregate customer information" means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

(3) SUBSCRIBER LIST INFORMATION.—The term "subscriber list information" means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

EXHIBIT

1 PROOF OF SERVICE BY MAIL

2 Re: AT&T COMMUNICATIONS OF CALIFORNIA, ET AL. v. PACIFIC BELL,
3 et al. Consolidated Action U.S.D.C., No. Dist. - Oak. Div.,
4 Action No.: C-96-1691 SBA

5 I, JENNIFER S. NEWMAN, declare that:

6 I am over the age of eighteen years, not a party to the
7 within action, and employed in the City and County of
8 San Francisco, California. My business address is Pacific
9 Telesis Legal Group, 140 New Montgomery Street, Room 1021,
10 San Francisco, California 94105.

11 I am readily familiar with our practice for collection
12 and processing of correspondence and documents for mailing.
13 Under that practice, in the ordinary course of business,
14 correspondence and documents are deposited, postage fully
15 prepaid, with the United States Postal Service on the same day
16 they are collected and processed.

17 On the date specified below, I served the foregoing
18 **DECLARATION OF WALID ABDUL-RAHIM IN SUPPORT OF DEFENDANTS'**
19 **OPPOSITION TO PLAINTIFFS' APPLICATION FOR PRELIMINARY INJUNCTION**
20 on the person(s) listed below by placing a true copy thereof
21 enclosed in a sealed envelope with postage thereon fully prepaid,
22 in the United States mail at
23 San Francisco, California, in accordance with our ordinary
24 practices, addressed as follows:

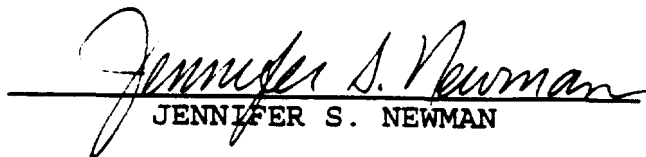
25 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
26 REBECCA A LENABURG
27 LAURA MAZZARELLA
28 Three Embarcadero Center
San Francisco, CA 94111-4066

1 LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.
2 R. SCOTT PUDDY
3 THOMAS E. McDONALD
4 One Embarcadero Center, 4th Floor
5 San Francisco, CA 94111

6 GEORGE S. DUESDIEKER
7 DARREN S. WEINGARD
8 SPRINT LAW DEPARTMENT
9 1850 Gateway Drive, 4th Floor
10 San Mateo, CA 94404-2467

11 I declare under penalty of perjury under the laws of
12 the United States of America that the foregoing is true and
13 correct.
14

15 DATED: June 18, 1996

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23
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25
26
27
28

JENNIFER S. NEWMAN

COPY

PACIFIC TELESIS LEGAL GROUP
BOBBY C. LAWYER (115017)
WALID S. ABDUL-RAHIM (141940)
140 New Montgomery Street, Room 1023
San Francisco, California 94105
Telephone: (415) 542-2182 (& 2551)
Facsimile: (415) 882-4458

ORIGINAL
FILED

JUN 25 1996

RICHARD W. HEWITT
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND, CALIFORNIA

Attorneys for Defendants
PACIFIC BELL, PACIFIC TELESIS GROUP,
PACIFIC BELL EXTRAS, and
PACIFIC BELL COMMUNICATIONS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

CONSOLIDATED ACTION

CASE NO. C 96-1691 SBA

AT&T COMMUNICATIONS OF
CALIFORNIA, et al.,

Plaintiffs,

vs.

PACIFIC BELL, et al.,

Defendants.

DECLARATION OF JAN HEWITT IN
SUPPORT OF DEFENDANTS' MEMO-
RANDUM OF POINTS AND AUTHORITIES
RE: SECURITY FOR COSTS AND
DAMAGES FROM A "WRONGFUL"
PRELIMINARY INJUNCTION

DATE: JULY 2, 1996

TIME: 2:00 PM

PLACE: COURTROOM 3
[HON. SAUNDRA
BROWN ARMSTRONG]

1.

J. Hewitt Decl.: Supporting
Defendants Re: Security
for Costs and Damages -
C96-1691 SBA

1 I, Jan Hewitt, declare:

- 2 1. I am presently employed by Pacific Bell ("Pacific Bell") and, as such, am on loan to its
3 affiliate, PB Extras ("PB Extras"). My position there is Program Manager. I submit this
4 declaration in support of defendants' Supplemental Memorandum of Points and Authorities
5 Re: Security for Costs and Damages. The facts stated herein are true of my personal
6 knowledge, or based on business records kept in the course of regularly conducted business
7 activity at Pacific Bell and PB Extras, respectively, and it is the normal business practice of
8 Pacific Bell and PB Extras, respectively, to make these records. I have personal knowledge of
9 the facts stated in this declaration, except those matters stated on information and belief, which
10 matters I believe, in good faith, to be true.
11
12 2. A previous declaration by me, signed May 10, 1996, has also been submitted in support of the
13 defendants' opposition to AT&T's, MCI's and Sprint's preliminary injunction motion. I
14 understand, on information and belief, that my earlier declaration is attached as Exhibit D to
15 the Declaration of Walid Abdul-Rahim, filed with the Court on June 18, 1996, as part of the
16 defendants' papers opposing the preliminary injunction motion.¹
17
18
19
20

21 ¹ As sworn in my earlier declaration, I came to Pacific Bell in 1985, where I have been for the last eleven years, in
22 various Marketing positions. My first position was as an Analyst for the Marketing Intelligence Center, a
23 research and information group supporting market strategy, planning and competitive research groups at Pacific
24 Bell. I was promoted to Manager of the Center and developed specialized database services to provide access to
25 both internal and external information sources relevant to telecommunications. My next assignment in 1989 was
26 in the Market Research group, where I worked on a variety of research projects for the Residence
27 telecommunications market. From there I moved to the Consumer Marketing group, where I developed market
28 plans for the residential market. My next assignment in 1991 was to launch a loyalty program for residential
customers called "California Gold". I managed the program until it was discontinued in January 1996. In 1994 I
took on the responsibility for the development and launch of the Pacific Bell Savings Card, a Co-branded,
combined credit and calling card offered to Pacific Bell residence customers that earns them dollars off their
Pacific Bell phone bill. In 1995 I took on program management for the new Pacific Bell Awards program
("Awards") launched in March 1996.

- 1 3. In this present declaration, I describe the approximate dollars spent to date on the Pacific Bell
2 Awards Program and the projected budget through the end of 1996. The program is heavily
3 centered on the use of the customer's monthly total billed revenue or "TBR". If the use of
4 TBR is halted for more than a few weeks or if a major restructuring is ordered pending a trial,
5 the resulting operating and economic hardships will, in my view, be severe and will threaten
6 immediate loss of both customer goodwill and customers in the context of intense competition
7 in the provisioning of local telephone services.
8
9 4. The operational core of the Awards program is based on the use of TBR. In this regard, the
10 program's computer data bases were built with TBR data forming a common denominator as to
11 all enrollees. The program-specific software has been coded with the pertinent TBR
12 information. Millions of pieces of explanatory literature already in the hands of customers
13 refer to the TBR data. And of acute concern, respecting customer goodwill and Pacific's
14 reputation, is that program enrollees and solicitees have been told in good faith that the TBR
15 information is the basis for computing Awards points.
16
17 5. If the defendants are preliminarily enjoined from continuously offering and administering the
18 Awards program by the use of TBR, they would incur substantial costs and damages. PB
19 Extras anticipates these costs and damages largely will duplicate the dollars spent to date on
20 the development, promotion and administration of the program, because past expenditures
21 would be rendered largely valueless if Pacific had to start anew or seriously redesign the
22 program because of an inability to use TBR.
23
24 6. PB Extras was incorporated in December 1995 as an entity formed for the sole purpose of
25 operating Awards. PB Extras has its own office space, equipment and independent
26
27
28

1 relationships with consultants and vendors. The calculable costs and expenses anticipated for a
2 complete restructuring of the program probably would approximate an aggregate of
3 \$16,599,989, the amount already incurred or committed as costs and expenses from January
4 through July. The dollars used to launch such a program are heavily front-loaded, and the
5 amount already incurred represents the larger proportion of the total anticipated budget for the
6 program in its first year. Attached hereto as Exhibit A is a summary of original financial
7 information from bills, invoices, accounting and other financial records which has been
8 compiled in the ordinary course of business of PB Extras pertaining to Awards. The originals
9 of the records upon which Exhibit A is based are, upon information and belief, in the
10 possession of PB Extras and Pacific Telesis Group. Exhibit A also contains data on amounts
11 we expect to spend, but which are not otherwise used in this declaration. The financial
12 information in Exhibit A can be broken down as follows:

13
14
15
16
17 A. Advertising costs. To date, upon information and belief, approximately 4.8 million
18 customers have been mailed a direct mail piece regarding the Awards program. In addition,
19 the program has been advertised in newspaper ads and television and radio spots. All such
20 advertising is based on the program's current configuration --rewarding points based on
21 TBR. Any material change in the program would require PB Extras to restart its entire
22 advertising campaign in order to explain the new program, at the following anticipated
23 costs and expenses:
24
25
26
27
28

1 (i) Print, Direct Mail: the costs to recreate, redesign, print and/or publish new direct mail
2 and newspaper advertisements (including the related cost of materials) are estimated to be
3 \$8,007,851, that is, equivalent to the analogous sum spent on this portion of the program to
4 date, as set forth on line 13 of Exhibit A.
5

6
7 (ii) Television and Radio Broadcast costs: the costs to run new media advertisements are
8 estimated to be \$2,361,384, again, equivalent to the amount already spent as set forth on
9 line 21 of Exhibit A.
10

11
12 B. Startup Costs. New startup costs would be heavily front loaded. They would include:
13

14 (i) Employee and Vendor Costs Arising from the Redevelopment Of The Program:
15

16 Several employees at Pacific Bell and PB Extras, and outside vendors and consultants have
17 spent many months on the design, implementation and administration of the Awards
18 program. A material change in the program would require the duplication of significant
19 efforts to redesign and reintroduce the program. These would include the management
20 costs of reconstructing the program, conducting marketing studies, the costs of
21 implementing modified computer programs and new databases, and the costs of the
22 requisite retraining of customer-facing employees about the new program. Such costs
23 incurred to date approximate \$5,026,087, as set forth on line 32 of Exhibit A. If an
24 equivalent program had to be started from scratch, it is my belief that roughly this amount
25 would be incurred again.
26
27
28

1
2 (ii) Third party vendors: The defendants anticipate they would incur cancellation costs and
3 fees to terminate work in progress by third party vendors if the program is preliminarily
4 enjoined. The amount and extent of these costs are difficult to ascertain, without knowing
5 the duration and scope of such an injunction.
6

7
8 C. Customer Goodwill. Even a temporary freeze of the program is likely to have a
9 significant, detrimental effect on efforts to attract and/or retain customers to the Awards
10 program and to retain Pacific Bell customers. Pacific Bell is facing an extremely
11 competitive environment for the provisioning of local telephone services. I believe that
12 being forced to tell program enrollees that Pacific cannot keep its word, which Pacific gave
13 in good faith, would have terrible implications for customer good will and retention. This
14 is confirmed by the negative publicity generated when AT&T, Sprint and MCI filed their
15 lawsuits.² A suspension of the program is likely to promote customer attrition when those
16 customers are offered similar awards programs and telecommunications services from other
17 competitors, including the Plaintiffs. For example, attached hereto as Exhibit C is a true
18 and correct copy of a Wall Street Journal article dated June 12, 1996 entitled "AT&T
19 challenges the Bell Companies", where Plaintiff AT&T's chairman is quoted as saying
20 "AT&T is going after the local service market with everything we've got...", and that
21 "...AT&T plans to take at least a third" of the local market "...within a few years."
22
23
24
25

26 ² Attached hereto as Exhibit B are true and correct copies of articles which appeared on May 8, 1996 in the Oakland
27 Tribune ("Rivals Say PacBell Not Playing Fair"); the San Diego Union ("Rivals Want PacBell's Bonus Offer
28 Bounced"); and the San Jose Mercury News ("PacBell Promotion Challenged").

14612 P. 6/13

1 Attached hereto as Exhibit D is a true and correct copy of the first two pages of a six-page
2 AT&T press release for March 19, 1996 as the purported document appeared on the
3 Internet. These pages describe a comparable customer loyalty program offered by AT&T.
4 The excluded pages (pages 4 - 6 of the press release) explain the available awards.
5

6

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9
10
11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct.

13
14 June 25, 1996

15
16 

17 Jan Hewitt

	1996		GRAND
	JAN-JUL *	AUG-DEC	TOTAL
<u>Printing/Direct Mail Costs</u>			
O&M Print	\$1,112,150	\$0	\$1,112,150
Newsletter	296,468	200,000	496,468
SA&A Print	302,918	0	302,918
P&F Newsletter/DM	296,052	128,000	424,052
BRIERLEY DM	3,700,000	0	3,700,000
Wells Brochure	20,000	0	20,000
Brierley - Initial Letter	411,000	150,000	561,000
Welcome Kits	1,447,000	0	1,447,000
Newsletter	<u>422,263</u>	<u>1,815,000</u>	<u>2,237,263</u>
Sub-Total	\$8,007,851	\$2,293,000	\$10,300,851
<u>TV/Radio Costs</u>			
O&M TV	\$734,839	\$0	\$734,839
GOODBY TV	0	0	0
Headquarters TV	1,038,067	0	1,038,067
CASANOVA TV	237,300	0	237,300
SA&A TV	<u>351,178</u>	<u>0</u>	<u>351,178</u>
Sub-Total	\$2,361,384	\$0	\$2,361,384
<u>Employee/ Vender Costs</u>			
Marketing Center	\$140,000	\$700,000	\$840,000
Matrix	1,165,032	0	1,165,032
CMG Database Input	48,167	19,180	67,347
Brierley Database	367,200	306,000	673,200
CMG CS	1,947,381	2,220,760	4,168,141
Brierley Acct Mgmt	433,364	225,000	658,364
Data Services	291,668	208,335	500,003
Other Overhead	<u>633,275</u>	<u>748,650</u>	<u>1,381,925</u>
Sub-Total	\$5,026,087	\$4,427,925	\$9,454,012
<u>Accrued Liability of Points Earned</u>			
Rewards Costs **	<u>1,204,667</u>	<u>3,195,341</u>	<u>4,400,008</u>
Sub-Total	\$1,204,667	\$3,195,341	\$4,400,008
Grand Total	\$16,599,989	\$9,916,266	\$26,516,255

* Includes amounts for cost & expenses incurred before June 24, 1996
and for which payment is due by July 31, 1996.

** Reward cost reflects liability accrual assuming 50% redemption.

Rivals say PacBell not playing fair

OAKLAND TRIBUNE

WEDNESDAY, MAY 8, 1996

p. c-1

By Victoria Collier
STAFF WRITER

In separate lawsuits filed Tuesday in San Francisco's U.S. District Court, MCI, Sprint and AT&T accused Pacific Bell of being anti-competitive and engaging in unfair business practices with its new "Pacific Bell Awards" program.

The companies claim PacBell, the state's largest local carrier, is using the long-distance carriers' billing information to provide PacBell customers with travel discounts, software, car rental certificates and other free or discounted merchandise.

Under the program, customers can earn points for every dollar they spend not only on local PacBell calls but on long-distance calls involving other phone companies such as Sprint Corp., MCI Communications Inc. and AT&T Corp.

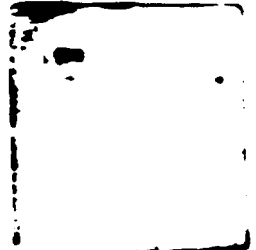
The long-distance carriers say using that billing information violates billing and collection service contracts as well as the unfair competition provision of the California Business and Professions code.

"In offering this program, Pacific Bell is relying on its access to information gathered from the billing and collection work it does under contract with MCI and the other long-distance companies," said James Lewis, MCI's regional executive for public policy.

But, Lewis said PacBell is unwilling to make its billing information available to MCI or other competitors. "That means MCI and the other long distance companies cannot offer comparable bonus points for local service — and we are not allowed to offer our customers rewards for using PacBell's local service," he said.

PacBell vigorously defended the awards program. "We consider the allegations of wrongdoing in the suit filed earlier today to be untrue and completely without merit," said Elizabeth Grandinger.

Please see PacBell, C-2



PacBell: Consumer group hits program

Continued from C-1

president and general manager of Pacific Bell Extras, which is running the awards program.

The legal dispute over the awards program occurs against the backdrop of the new Telecommunications Reform Act of 1996 that has allowed phone companies to expand into uncharted areas. Long-distance companies, for example, will be able to offer local telephone service. PacBell, on the other hand, has said it is moving into the long-distance market.

It didn't take long for the program to come under attack. Toward Utility Rate Normalization, a

San Francisco-based consumer watch group, said it filed a protest with the state Public Utilities Commission on April 24 — the day the group saw advertisements for the program in local newspapers.

Regina Costa, a telecommunications analyst for TURN, said she was especially startled small print in the ad that says that by joining the program, the participant allows all PacBell affiliates to provide PacBell Extras with "any/all of my past/present/future customer information."

"Information about customer calling patterns is extremely valuable," Costa said. "You could be put on many, many direct mailing lists and you could be subject to

horrendous marketing."

TURN says it wants the PUC to suspend the awards program and release people who have already signed up for the program. "Anybody signing this wouldn't know which companies were getting this information and they would have no idea how this information is being used," Costa said.

Helen Michdewitz, staff attorney for the PUC's Division of Ratepayer Advocates, said the complaints would be in the commission's jurisdiction only if they concern the PUC's rules, regulations and tariffs. "There's so much going here," she said. "If it ended up in (PUC) hearings ... it could take months."

EXHIBIT R 1 of 3

WEDNESDAY, MAY 8, 1996

p. c-3

Rivals want PacBell's bonus offer bounced

ASSOCIATED PRESS

SAN FRANCISCO — Three long-distance phone companies filed separate unfair-competition lawsuits against Pacific Bell yesterday, accusing the local phone company of using privileged long-distance billing information for its new bonus calling program.

AT&T Corp., MCI Communications Corp. and Sprint Corp. asked the U.S. District Court for an injunction against PacBell's incentive program, which gives customers bonuses based on the amount of their local and long-distance bills.

Under an established agreement, Pacific Bell sends one bill to customers that also includes the billing for AT&T, MCI or Sprint charges.

Pacific Bell's new program, which gives customers points to "spend" on specific services such as airlines, unfairly uses information about long-distance calling, the companies contend.

"PacBell is unwilling to make its own billing information available to competitors. That means MCI and other long-distance companies cannot offer comparable bonus points for local service — and we're not allowed to offer our customers rewards for using PacBell's local service," James L. Lewis, a regional executive for public policy at MCI, said in a statement.

PacBell, in a statement, denied any wrongdoing and said the suits were a "desperate effort" by the long-distance companies to get rid of its bonus program operated by Pacific Bell Extras.

"The information that the program uses to determine points awards is an aggregate sum, in response to customer desires for a simple, comprehensive program," Elizabeth Grandinger, president of Pacific Bell Extras, said in a statement.

Grandinger said the bonus program is the same as a credit card company giving points for a customer's total spending "no matter what the dollars were spent on."

WEDNESDAY, MAY 6, 1996

p. 3C

Pac Bell promotion challenged

Business News

SAN FRANCISCO — AT&T Corp., MCI Communications Corp. and Sprint Corp. sued Pacific Bell in federal court Tuesday seeking to prevent the Baby Bell from continuing a promotion program.

The long-distance companies claim Pacific Bell, a unit of San Francisco-based Pacific Telesis Group, is misusing data on long-distance callers as part of its "Pacific Bell Awards" program.

The program, announced last month, awards customers points redeemable for airline tickets, car rentals and other prizes, based on local and long-distance calls made.

The suit claims the program

improperly uses billing data the long-distance companies provide Pacific Bell to complete long-distance calls on its local network.

Under an established agreement, Pacific Bell sends one bill to customers that also includes the billing for AT&T, MCI or Sprint charges.

In a statement, Pacific Bell called the suit "completely without merit."

The company said the program is similar to customer reward programs developed by credit card companies. "Customers participate voluntarily," the company said.

The Associated Press contributed to this report.

AT&T Challenges the Bell Companies

Allen Outlines Plans to Take Big Part of Local Market Over Next Several Years

By JOHN J. KELLER

Staff Reporter of THE WALL STREET JOURNAL
AT&T Corp.'s Chairman Robert E. Allen, in a bare-knuckled challenge to the Bell companies, said AT&T plans "to take at least a third" of the \$90 billion local phone market within several years.

Mr. Allen's optimistic prediction comes as AT&T is consumed by restructuring, layoffs and a flagging stock price.

Clearly, Mr. Allen expects the company to emerge from its previously announced three-way breakup determined to beat rivals on all fronts—long-distance, local-phone, Internet and even home-entertainment services.

"We've had a rich diet of growth and change for better than 10 years. And we're ready to compete with anybody," Mr. Allen told analysts yesterday morning at an investment conference sponsored by Sanford C. Bernstein & Co. "Especially with our friends at the Bell companies."

AT&T, which intends to offer local phone services in all 50 states, still must strike agreements with the seven Bells to hook its long-distance system to their local lines. The company also needs to cut the time it takes to deliver such services as on-line offerings to customers. Only then will it be better able to push a wide range of new phone and data services into its much-coveted base of 90 million customers. Analysts say the Bells could capture as much as a third of the current \$70 billion long-distance market within a couple of years of entering the business.

But Mr. Allen said AT&T will be streamlined for competition. He declared



Robert E. Allen

Can AT&T Beef Up?

Mr. Allen's ambitious revenue goals

	1995 (billions)	WITHIN FIVE YEARS* (billions)
Long-distance	\$43	\$80-\$83
Local	1	18-30
Wireless	3	7-8
Total	47	85-101

*Estimated, would presumably include satellite-television services to begin later this year.

Note: Numbers based on projections made by AT&T Chairman Robert E. Allen

that it intends to "take a basic \$25-a-month long-distance customer and convert him or her into a \$100-a-month customer for a broader bundle of services that includes long distance as well . . . the 180-degree opposite of commodity service."

"AT&T is going after the local service market with everything we've got," Mr. Allen declared.

The Bells have their own plans to keep AT&T at bay as they attack its long-distance turf, but Mr. Allen predicted "it could be well into the next century before any of them serve their first long-distance customer in their own territory."

This is because recently passed telecommunications legislation requires the Bells to open up their local markets fully to competitors, including letting companies such as AT&T hook up to their local-phone lines, before the Bells themselves can offer long-distance service.

Mr. Allen said AT&T intends to hold the Bells' feet to the fire. "We didn't send our lawyers on vacation," he declared. "We are already bird-dogging the FCC and the state regulatory commissions."

AT&T's easiest route into the local market will be to sell services by leasing some of the lines and other facilities already owned by the Bells. Or, "we will go all the way around the local networks," using alternate access providers currently covering 70 cities, Mr. Allen said.

Using this new system, Mr. Allen said AT&T plans to capture a third of the local market "within a few years. . . . Even if we only take 20% of that addressable market share by the year 2000, that would mean an

additional \$15 billion to \$18 billion a year revenue for AT&T."

The local service will become part of AT&T bundled offering that includes wireless, Internet and other services. Mr. Allen said that cellular phone service, which generated \$3 billion in revenue in 1995, "could be a \$7 billion-to-\$8 billion-a-year business for us in five years or less."

On-line services and AT&T's planned satellite-television service, a joint marketing venture with General Motors Corp. Hughes Communications subsidiary should contribute an additional "multi-billion-dollar revenue stream" to AT&T overall revenue in the same five years or less, Mr. Allen said.

Overall, "for the next few years, we see ourselves growing revenue at least at broad industry rate, which we think likely be 7% to 8%," Mr. Allen said. "We expect healthy top-line (revenue) growth short-term and long-term."

To improve earnings, AT&T will have to fight hard to cut some costs over which it has little current control, but it is gaining increasing leverage with every plan to expand into new services. The company is cutting its work force to keep its pay lean, but it must also reduce the fees it pays local phone companies in the U.S. and abroad for completing calls that ride on the AT&T long-distance network. Currently, those expenses amount to \$17.5 billion a year.

"There's a lot more potential savings on that one," Mr. Allen noted.

Regarding AT&T's restructuring, Mr. Allen said the company will probably offload the remaining 82% it still holds of its equipment arm, now called Lucent Technologies Inc., by late in the third quarter. (One person familiar with AT&T's plans later said it will take place Sept. 30.) A spinoff of NCR Corp., AT&T's computer unit, should be completed by the end of the fourth quarter, according to AT&T's overall plan, Mr. Allen added.

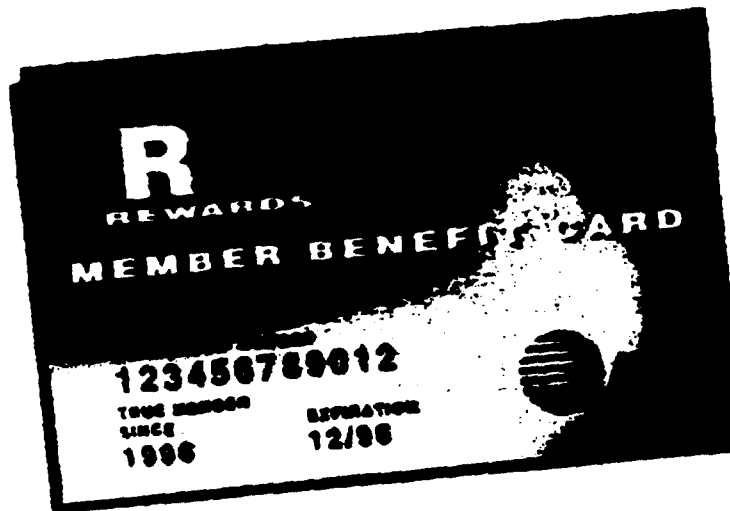


News Release

FOR RELEASE TUESDAY, MARCH 19, 1996

AT&T rewards customers with new loyalty program

BASKING RIDGE, N.J. -- AT&T today announced that it will reward its customers with the largest, most wide-ranging and most flexible loyalty program in the telecommunications consumer marketplace. A new AT&T True Rewards® program will offer exclusive, on-the-spot deals on entertainment, travel, food, retail merchandise and more from an array of national corporate partners to AT&T customers who spend as little as \$5 a month on AT&T calls.



Available May 1 (pending tariff effectiveness), the program will answer consumers' call for a simpler way to choose their reward, their way, according to the company. Consumers will need just one AT&T membership card to get special offers and everyday discounts from corporate partners, including Blockbuster Video; Marriott Hotels, Resorts and Suites; Pearle Vision™ and "TCBY"® Treats locations nationwide, among others.

Members will simply need to present their membership card at participating retailers or provide their membership number when ordering by phone or mail.

Members also will have special access to AT&T service offerings, such as 35 percent off calls using AT&T Language Line®, the company's interpretation service, and 30 percent off any single musical telephone greeting from 1 800 ATT-GIFT(sm). The True Rewards Vacation Hotline, available exclusively to members, will provide toll-free access to late-breaking, discounted travel packages from major airlines, hotels and cruise lines.

"Loyal AT&T customers will no longer have to accumulate and redeem points to take advantage of great deals," said Dan Clark, vice president and general manager, marketing and sales, AT&T Consumer and Small Business Services. "We're partnering with some of the best and most popular companies in the country so our customers can get what they want, when

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EXHIBIT D page 1 of 1

they want it -- often right in their local communities.

"We're increasing the distance between AT&T and the competition by making a great customer rewards program even better. Consumers have told us they want simpler, more flexible ways to reap the added benefits of being an AT&T customer. Now the everyday values they want are more within their reach than ever," added Clark.

The True Rewards program will provide opportunities to earn rewards at three levels. The basic True Rewards plan will be available to any AT&T residential long-distance customer who spends at least \$5 a month on qualifying calls. Members will receive a membership card that can be used at retailers coast to coast. As of April 30, 1996, existing True Rewards members who spend less than \$50 a month will no longer be eligible to earn points, but will be able to use their membership card for special offers at dozens of retailers. Points remaining in customers' accounts can be redeemed through their expiration dates.

True Rewards Silver will be available to customers who spend between \$50 and \$74.99 a month. Participants will receive the membership card, as well as the opportunity to earn points redeemable for an array of products, services, discounts and other options, such as frequent flier miles.

True Rewards Gold will be available to customers who spend more than \$75 a month on qualifying calls. Participants will receive the same benefits as Silver members, but will be eligible to earn twice as many points.

"Combining the strength of our brand with that of AT&T is a powerful way to thank millions of loyal customers," said Brian Woods, senior vice president, marketing, Blockbuster Entertainment. "Now, consumers will be able to visit one of our more than 3,100 stores around the country, rent two movies and get a third free, just for being a loyal AT&T customer. Together, we can offer consumers more ways to save and more reasons to continue doing business with us."

Other well-known partners in the program will include 1-800-FLOWERS(sm), Amtrak®, Firestone Tire & Service Centers, Red Lobster restaurants and Sam Goody/Musicland stores.

True Rewards members who want to redeem their points for AT&T Long Distance Gift Certificates, AT&T Universal Card certificates, a check toward AT&T paging and messaging services, a credit to their local telephone bill, or an AT&T check good for cash, must do so by June 30, 1996.

Consumers already enrolled in the True Rewards program who spend \$25 or more a month on qualifying calls will be automatically enrolled in the enhanced program. Other consumers who want to enroll in the new program can call 1-800-7-REWARD.

AT&T is creating a new company that customers can rely on for all their communications needs, giving them access to each other and the on-line and home entertainment services they want and need -- anytime, anywhere.

1 PROOF OF SERVICE BY MAIL

2 Re: ATT v. Pacific Bell
3 U.S.D.C. - No. Dist. - Oakland Div. Court Action No. C96-
1691

4 I, Jennifer S. Newman, declare that:

5 I am over the age of eighteen years, not a party to the
6 within action, and employed in the City and County of San
7 Francisco, California. My business address is Pacific Telesis
8 Legal Group, 140 New Montgomery Street, Room 1021, San Francisco,
9 California 94105.

10 I am readily familiar with our practice for collection
11 and processing of correspondence and documents for mailing.
12 Under that practice, in the ordinary course of business,
13 correspondence and documents are deposited, postage fully
14 prepaid, with the United States Postal Service on the same day
15 they are collected and processed.

16 On the date specified below, I served the foregoing J.
17 HEWITT DECLARATION IN SUPPORT OF DEFENDANTS' SUPPLEMENTAL
18 MEMORANDUM OF POINTS AND AUTHORITIES RE: SECURITY FOR COSTS AND
19 DAMAGES FROM A "WRONGFUL" PRELIMINARY INJUNCTION on the person(s)
20 listed below by placing a true copy thereof enclosed in a sealed
21 envelope with postage thereon fully prepaid, in the United States
22 mail at San Francisco, California, in accordance with our
23 ordinary practices, addressed as follows:

24 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
25 REBECCA A LENABURG
26 LAURA MAZZARELLA
27 Three Embarcadero Center
28 San Francisco, CA 94111-4066

1 LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.
2 R. SCOTT PUDDY
3 THOMAS E. McDONALD
4 One Embarcadero Center, 4th Floor
5 San Francisco, CA 94111

6 GEORGE S. DUESDIEKER
7 DARREN S. WEINGARD
8 SPRINT LAW DEPARTMENT
9 1850 Gateway Drive, 4th Floor
10 San Mateo, CA 94404-2467

11 I declare under penalty of perjury under the laws of
12 the United States of America that the foregoing is true and
13 correct.

14 June 25, 1996

15 **Jennifer S. Newman**

16 _____
17 Jennifer S. Newman
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24
25
26
27
28

1 PACIFIC TELESIS LEGAL GROUP
BOBBY C. LAWYER (115017)
2 WALID S. ABDUL-RAHIM (141940)
140 New Montgomery Street, 10th Floor
3 San Francisco, California 94105
Telephone: (415) 542-2182 (& -2551)
4 Facsimile: (415) 882-4458

5 Attorneys for Defendants
PACIFIC BELL, PACIFIC TELESIS GROUP,
6 PACIFIC BELL EXTRAS, and
PACIFIC BELL COMMUNICATIONS
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION
10

11 AT&T COMMUNICATIONS OF)	<u>CONSOLIDATED ACTION</u>
CALIFORNIA, et al.,)	
12)	No. C 96-1691 SBA
Plaintiffs,)	
13)	[PROPOSED]
vs.)	ORDER DENYING APPLICATION FOR
14)	<u>PRELIMINARY INJUNCTION</u>
PACIFIC BELL, et al.,)	
15)	DATE: JULY 2, 1996
Defendants.)	TIME: 2:00 P.M.
16)	PLACE: COURTROOM 3
		[HON. SAUNDRA BROWN
17		ARMSTRONG]
18		

19 Plaintiffs have filed an application for Preliminary
20 Injunction against defendants.

21 Federal Rule of Civil Procedure 65 provides the district
22 court with the authority to enter a Preliminary Injunction. The
23 Court may grant such injunctive relief where the movant
24 demonstrates either "(1) a likelihood of success on the merits
25 and the possibility of irreparable injury, or (2) the existence
26 of serious questions going to the merits and the balance of
27 hardships tipping in [its] favor." Gilder v. PGA Tour, Inc., 936
28 F.2d 417, 422 (9th Cir. 1991).

1 The Court has considered the papers submitted in connection
2 with this Preliminary Injunction request, including an opposition
3 by the defendants, and plaintiffs' reply. The Court finds that
4 plaintiffs have not demonstrated that the extraordinary remedy of
5 a Preliminary Injunction is warranted.

6 Plaintiffs have not demonstrated a likelihood of success on
7 the merits. Nor have plaintiffs demonstrated that the balance of
8 hardships favors granting a TRO, or that irreparable injury is
9 possible or imminent.

10 The Court therefore finds that a Preliminary Injunction is
11 not warranted. Accordingly,

IT IS HEREBY ORDERED THAT the plaintiffs' application for a Preliminary Injunction is DENIED.

14 IT IS SO ORDERED.

15 Dated: June , 1996

SAUNDRA BROWN ARMSTRONG
United States District Judge

1 PROOF OF SERVICE BY MAIL

2 Re: AT&T COMMUNICATIONS OF CALIFORNIA, ET AL. v. PACIFIC BELL,
3 et al. Consolidated Action U.S.D.C., No. Dist. - Oak. Div.,
4 Action No.: C-96-1691 SBA

5 I, JENNIFER S. NEWMAN, declare that:

6 I am over the age of eighteen years, not a party to the
7 within action, and employed in the City and County of
8 San Francisco, California. My business address is Pacific
9 Telesis Legal Group, 140 New Montgomery Street, Room 1021,
10 San Francisco, California 94105.

11 I am readily familiar with our practice for collection
12 and processing of correspondence and documents for mailing.
13 Under that practice, in the ordinary course of business,
14 correspondence and documents are deposited, postage fully
15 prepaid, with the United States Postal Service on the same day
16 they are collected and processed.

17 On the date specified below, I served the foregoing
18 **[PROPOSED] ORDER DENYING APPLICATION FOR PRELIMINARY INJUNCTION**
19 on the person(s) listed below by placing a true copy thereof
20 enclosed in a sealed envelope with postage thereon fully prepaid,
21 in the United States mail at
22 San Francisco, California, in accordance with our ordinary
23 practices, addressed as follows:

24 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
25 REBECCA A LENABURG
26 LAURA MAZZARELLA
27 Three Embarcadero Center
28 San Francisco, CA 94111-4066